

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MATTHEW DONLIN,

Plaintiff,

Case No. 1:17-cv-00395-JCH-JHR

vs.

PETCO ANIMAL SUPPLIES STORES,
INC., A FOREIGN, PROFIT
CORPORATION,

Defendant.

DEFENDANT’S OPPOSED MOTION TO CONTINUE TRIAL SETTING

Defendant Petco Animal Supplies Stores, Inc. (“Defendant”), moves the Court to continue the Trial currently set for November 15, 2021 at 9:00 a.m. and the related Call of the Calendar on November 4, 2021 at 1:30 p.m. The grounds for this Motion are set forth below.

1. On February 12, 2021, this Court issued its Order (Doc. 71) granting in part and denying in part Defendant’s Motion for Summary Judgment (Doc. 52) and, in addition, ordered supplemental briefing from the parties on Plaintiff’s claim for retaliatory discharge (Doc. 71).

2. On March 15, 2021, the parties provided their supplemental briefing to the Court (Doc. 74, 75). The Court has not ruled on the supplemental briefing from the parties related to Plaintiff’s claim for retaliatory discharge.

3. On May 11, 2021, the Court issued its Trial Notice (Doc. 77), setting Jury Selection and Trial in this case on November 15, 2021, on a trialing docket, in Albuquerque, New Mexico. The Call of Calendar is set in this case on November 4, 2021.

4. A ruling on the supplemental briefing ordered by the Court on Plaintiff's claim for retaliatory discharge may substantially narrow the issues for trial. Such ruling may significantly alter Defendant's witnesses for trial (all of whom must travel from out-of-state), the parties exhibits and depositions to be used at trial, the nature and number of motions in limine, and the number of trial days.

5. This is the fourth request for extension. On January 31, 2018, the Court extended discovery deadlines and continued the trial setting (Doc. 49) after the Parties jointly moved the court for an extension to allow additional time for the Parties to conduct depositions. On April 9, 2019, the Court vacated the trial setting (Doc. 64) in light of the pending ruling on Defendant's motion for summary judgment. On January 28, 2020, the Court vacated the trial setting (Doc. 70) in light of the pending ruling on Defendant's motion for summary judgment.

6. Counsel for Plaintiff does not concur in the requested relief.

WHEREFORE, Defendant respectfully requests that the Court continue the current Trial Setting and related pretrial deadlines, to allow the Court to rule on the supplemental briefing, together with such further relief as the Court deems just in the circumstances.

Respectfully submitted this 14th day of September, 2021.

/s/ R. Shawn Oller

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2021, I electronically filed and served the foregoing with the Clerk of the Court using the CM/ECF system, and emailed a copy of the foregoing to the following if a non CM/ECF participant:

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